

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR246
)	
v.)	
)	
WAYLON HEPPNER,)	PRELIMINARY ORDER
)	OF FORFEITURE
Defendant.)	
_____)	

This matter is before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 31). The Court has reviewed the record in this case and finds as follows:

1. Defendant has entered a plea of guilty to Counts I, II and III of said Indictment. Count I charges the defendant with one count of being a felon in possession, in violation of 18 U.S.C. § 922(g)(1). Count II charges the defendant with one count of being an unlawful user of a controlled substance in possession of firearms, in violation of 18 U.S.C. 922(g)(3). Count III of said Indictment sought the forfeiture, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), of a Ruger, Model 10-22, .22 caliber rifle, serial number 251-52772; a Remington, Model 870 Express Magnum, 12 gauge shotgun, serial number B273659M; and a Winchester, Model 670-A, 30.06 caliber rifle, serial number G158575, on the basis they were firearms involved or used in the knowing commission of the offenses charged in Counts I and II.
2. By virtue of said plea of guilty, the defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

3. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained. Accordingly,

IT IS ORDERED:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count III of the Indictment and the defendant's plea of guilty, the United States is hereby authorized to seize the Ruger, Model 10-22, .22 caliber rifle, serial number 251-52772; a Remington, Model 870 Express Magnum, 12 gauge shotgun, serial number B273659M; and a Winchester, Model 670-A, 30.06 caliber rifle, serial number G158575.

C. Defendant's interest in said properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n)(1).

D. The aforementioned forfeited properties are to be held by the United States in its secure custody and control.

E. Pursuant to 21 U.S.C., § 853(n)(1), the United States forthwith shall publish for at least thirty consecutive days on an official government internet site (www.forfeiture.gov) notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the

properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

DATED this 8th day of December, 2008.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court